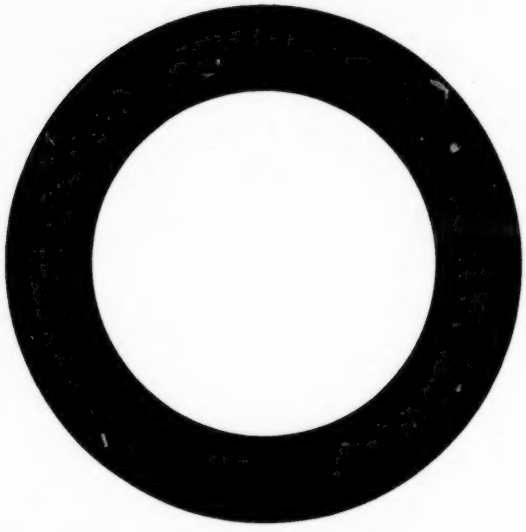

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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twentieth session

SUMMARY RECORD OF THE 4th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 27 April 1999, at 3 p.m.

Chairperson Mrs. BONOAN-DANDAN

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 8) (continued)

Second periodic report of Iceland (E/1990/6/Add.15; E/C.12/Q/ICE/1; HR/CESCR/NONE/1999/2) (continued)

1. At the invitation of the Chairperson, the delegation of Iceland resumed their places at the Committee table.

2. The CHAIRPERSON invited Mr. Grissa to take the floor and informed the Committee that the delegation had indicated its readiness to conclude its answers to the first set of issues (E/C.12/Q/ICE/1).

3. Mr. GRISSA, referring to paragraphs 33 to 36 of the second periodic report of Iceland (E/1990/6/Add.15) headed "Inequality in remuneration for work of equal value" (article 7 of the Covenant), recalled that the Icelandic Government had appointed a working group to oversee the execution of a study on equal remuneration of women and men in government institutions. He remarked that the fact that women earned 70 per cent of men's wages for work of equal value signalled a gross disparity and wondered what the outcome of the study had been.

4. The CHAIRPERSON invited the delegation to conclude their answers on the first chapter of the list of issues (E/C.12/Q/ICE/1).

5. Ms. ARNLJÓTSDÓTTIR (Iceland), referring to the incorporation of the Covenant into domestic law, said that the Ministry of Justice, had expressed the view to her that all the main aspects of the Covenant were reflected in Icelandic legislation. Examples were given in paragraphs 23, 24 and 25 of the report.

6. According to amended article 76 (1995) of the Icelandic Constitution, any person needing assistance on the grounds of illness, disability, ageing, unemployment, severe poverty or other comparable reason was guaranteed such assistance by law. Equally the right to education was guaranteed according to the needs of each individual, and children were ensured appropriate protection and care by law.

7. To illustrate the influence of the courts, she cited the example of a blind student who had, the previous year, won a case in the high court against the University of Iceland for not providing services commensurate with her needs, and who had been duly compensated by the university. It was believed that human rights would have a more significant impact in years to come on legislation, in the courts and in public administration in general.

8. The Icelandic Government welcomed the work of the Icelandic Human Rights Centre and hoped that much would be gained from their input. In answer to a

question concerning the University Institution of Human Rights, she said that the University and the Human Rights Centre were cooperating closely under a special agreement between them.

9. She hoped she had answered fully all the questions posed by the Committee and, if not, welcomed the opportunity to supplement the information given orally with written answers.

10. The CHAIRPERSON reminded the delegation that some questions were still outstanding, including questions relating to disability and specific cases.

11. Mr. SADI said it was reassuring to know that the Icelandic authorities believed the Covenant was reflected in domestic legislation. However, the Committee would like to have more concrete examples as to whether, for example, the provisions of the Covenant had been tested in a court of law.

12. Mr. RIEDEL, endorsing Mr. Sadi's position, also requested specific examples regarding the status of the Covenant. Delegations had a tendency to reply with long lists of enacted statutes. However, that could lead to important information being omitted. Considering that the exchange between the Committee and the delegation was a dialogue, it was acceptable to admit to deficiencies and to mention action plans or national policies aimed at implementing the provisions of the Covenant.

13. Ms. ARNLJÓTSDÓTTIR (Iceland) said she regretted the absence of a representative from the Ministry of Justice. The members of her delegation represented the Ministries of Health, Social Affairs and Education, Science and Culture. However, in the light of a recent conversation with an expert of the Ministry of Justice, she did not think that the Covenant had ever been directly invoked in a court of law or that there was any specific reference to it in any item of domestic legislation. The same was true for other international instruments. Would the Committee like to proceed with an article-by-article examination of the Covenant to determine whether there was any corresponding Icelandic legislation?

14. Mr. RIEDEL, stressing the need to focus on the principal issues, said that it would be unreasonable to expect such information to be provided in the absence of a representative from the Ministry of Justice, since the questions had related specifically to that Ministry. However, mention could be made in the Committee's Concluding Observations of the absence of a representative of that Ministry. On the other hand, if the Ministry could send the appropriate information to the Committee by the end of the week, it could be taken into account.

15. Ms. ARNLJÓTSDÓTTIR (Iceland) agreed with the suggestion and asked whether questions could be set out in writing.

16. The CHAIRPERSON said that the Committee needed to have specific examples that the Covenant had indeed been incorporated into domestic law. She referred to the specific question posed by Mr. Pillay and Mr. Texier regarding the fact that more weight seemed to be given to the International Covenant on Civil and Political Rights and asked when the Government intended to give

equal importance to both Covenants. She then asked the delegation to answer questions relating to non-discrimination, referring in particular to Mr. Wimer's question on migrant workers.

17. Ms. BALDURSDÓTTIR (Iceland) replied that migrant workers in Iceland numbered approximately 3,000, representing 1 per cent of the population. Although originally, by its very name, Iceland had been extremely insular, which probably accounted for its small number of immigrants, it did welcome migrant workers, and to her knowledge there was no discrimination against them. Should there be any suspicion of discrimination, especially against European Economic Area (EEA) nationals, it would be referred to the Complaints Committee. In fact, the committee had recently considered three cases. She was pleased to say in response to Mr. Wimer's question, that there was no evidence of major social problems affecting migrant workers.

18. The CHAIRPERSON reminded the delegation that there were outstanding questions to be answered under article 3 on equality between men and women.

19. Ms. BALDURSDÓTTIR (Iceland), in answer to Mr. Ceausu's question concerning obstacles to gender equality, said that there was no full explanation for the observed inequality, but pointed out that gender imbalance existed throughout the world. She referred the Committee to Iceland's written replies (HR/CESCR/NONE/1999/2) for the answer to the question regarding the disparity between what was contained in law and what was observed in practice. The Government was attempting to address the issue through various action programmes, women's rights associations and the Government's Four-year Plan of Action on Gender Equality. The Equal Status Complaints Committee had the legal right to make recommendations and to take cases before a court of law, which it had in fact done on several occasions. Both the Equal Status Act and the Committee were under review. The Act constituted an attempt by the Icelandic Government to change what was in fact a global phenomenon. Even though similar or worse situations existed in other countries, that was no excuse. Iceland was not content with simply having a high ranking but aimed to be the best.

20. In reply to Mr. Grissa's question regarding wage differentials between women and men, she said that a working group had been set up to determine the reasons for the wage gap. The working group had recommended that an experimental project be launched involving two bodies, a State body and a private entity, to implement a gender-neutral system of occupational assessment (E/1990/6/Add.15, paragraph 37). A committee consisting of a group of specialists from the Ministry of Social Affairs, the Equal Status Council and the Reykjavic community had been established to prepare a report on the subject. It had been hoped that the report would be completed before the elections due to be held in early May 1999, but it might be delayed until the end of May.

21. The CHAIRPERSON reminded the delegation that a question by Mr. Antanovich remained to be answered.

22. Mr. GRISSA said that he regretted to have to point out that the existence of a deficiency in one country did not justify a deficiency in another country. The Committee hoped to learn from Iceland's experience. The

country had a small population, approximately 250,000, the size of a town in other countries. Indeed, it had a rich cultural and democratic heritage and enjoyed a high per capita income. Being small, it should find it easier to solve certain problems. Iceland certainly should not be compared with larger countries such as India or China.

23. Mr. SADI, echoing Mr. Grissa's sentiments, said that the elusive nature of gender equality was no excuse not to attempt to find solutions to the problem. He noted that Iceland had a Plan of Action (1998 to 2001) to address the matter. However, he would like to know what efforts were being made to improve women's access to parliament. For example, other countries had implemented a quota system in the form of what was called affirmative action or positive discrimination. Did Iceland envisage introducing a quota system to enhance women's participation in parliament?

24. Mr. CEAUSU, thanking the delegation for the answers they had provided to the Committee's questions, reassured them that when the Committee asked questions or made comments, it was with the intention of encouraging dialogue and not to pass categorical judgement on their country's situation. It was true that Iceland had made progress since the last report. However, the Committee would like more details on the causes for the gap between reality and what was contained in legislation. He commended Iceland on the fact that they had drafted laws that sought to redress the inequality between women and men, especially with regard to salaries.

25. He noted that an Equal Status Complaints Committee had been set up and that it could make recommendations or bring legal action before a court of law in consultation with a party. However, why did the injured party not have the right to bring a case before the court? Surely that would bypass the presumably long procedure via the Equal Status Complaints Committee.

26. Mr. PILLAY welcomed the admission that equality did not exist in practice although provided for in legislation. However, if there was a legal right then there should be a legal remedy for injured parties, or those rights could not be enforced. That led him to question the veracity of the delegation's claims that although the Convention's provisions were not expressed in domestic legislation, they were in fact implemented and to wonder whether they were not just useless words on paper. The delegation had said that wage disparities existed in the public sector. It was correct to say that such disparities existed throughout the world, especially in the private sector. It therefore should be easy to take remedial action, especially as Iceland was one of the richest countries, small in size, as mentioned earlier, and aware of the problem. He welcomed the plan of action but thought that it would have been easy, since the legislation already existed, to help people to bring cases against the Government and win punitive damages.

27. Ms. BALDURSDÓTTIR (Iceland) apologized for comparing Iceland with other countries and explained that she had simply wanted to demonstrate the magnitude of the cultural problem. The Equal Status Act was one way of combating discrimination. It was precisely because the Government realized that the Act did not adequately provide for the protection of the rights of women and men that it was currently under revision.

28. There was no legal provision for a quota system to increase women's participation in parliament. However, some political parties did practise such a system. The Minister of Social Affairs had, the previous year, set up a committee, in the light of the elections scheduled for 8 May 1999, consisting of representatives of all political parties and the Equal Status Council. Since then, that committee had introduced advertisements, held meetings and spoken to women in politics in order to encourage them. Meetings had also been held with the chairpersons of each political party with a view to increasing the number of women in parliament.

29. The Equal Status Complaints Committee could take a case to court but only at the request of the individual. The individual could enforce his or her right before the court but the Equal Status Complaints Committee's role was confined to offering assistance. She disagreed with Mr. Pillay that the legislation might be just useless words on paper, because gender equality reports had shown that significant changes had been registered since 1991. However, there were still areas, such as the wage differential, that needed improving.

30. The CHAIRPERSON invited Committee members to ask questions pertaining to the specific provisions of the Covenant.

31. Mr. CEAUSU, referring to paragraph 44 of the written replies concerning the right of foreign residents to work in Iceland, wondered whether the fact that foreigners who were not European Economic Area (EEA) citizens needed to reside in the country for three years before they could be issued with a work permit meant that such persons were prevented from earning a living during that period.

32. Ms. BALDURSDÓTTIR (Iceland) explained that such persons were issued a temporary work permit until the three years had elapsed.

33. Mr. AHMED pointed out that, as stated in the report, the temporary permit was not in fact issued directly to applicants, but to their employers, thereby depriving the former of the right to choose their employment, placing them at the mercy of the employer, and discriminating against them vis-à-vis EEA citizens, to whom the temporary work permit was issued directly. Secondly, it appeared from the report that foreigners were still prey to discriminatory practices in the form of denial of the right to engage in commercial fishing in Icelandic waters and of access to electricity for other than domestic use.

34. Ms. BALDURSDÓTTIR (Iceland) acknowledged the truth of the first part of Mr. Ahmed's remarks concerning the issue of the temporary work permit. She said she would respond to the second part after consulting her Government.

35. Mr. WIMER ZAMBRANO asked the delegation to indicate the specific obstacles encountered by Iceland in acceding to ILO Convention No. 138 concerning Minimum Age for Admission to Employment, admittedly a very complicated convention which Iceland was not alone in failing to sign.

36. The CHAIRPERSON suggested that the delegation might wish more time to gather the information it needed to answer the question and that they might do so at the following meeting.

37. Mr. THAPALIA observed that, despite the recommendations made to Iceland in the 1993 Economic and Social Council report and the 1996 report of the Committee for the Elimination of Discrimination against Women to intensify its efforts to eliminate persisting gender disparities, it was clear from paragraph 36 of Iceland's report that huge wage inequalities still existed. He wondered what specific measures Iceland, as a party to the Covenant on Economic, Social and Cultural Rights, was taking to implement the aforementioned recommendations.

38. Mr. TEXIER, acknowledging the statement contained in Iceland's report to the effect that all workers were covered by collective agreements with regard to minimum wage, wished to know whether there was any specific body to whom they could appeal in the event the law was violated. Also, since the report was silent on the subject of accidents in the workplace, he asked the delegation to provide work-related accident statistics and to inform the Committee of any measures taken to reduce them.

39. Mr. AHMED asked for clarification concerning yet another anomaly connected with work and one that could easily be remedied: under Act 133/1994, neither citizens of EEA countries nor their foreign spouses required a work permit to work in Iceland, while a foreign wife of an Icelandic citizen did.

40. Ms. BALDURSDÓTTIR (Iceland), responding to Mr. Thapalia's question concerning gender equality, explained that a bill containing action programmes was submitted to Parliament every four years and that both the previous and current action programmes dealt with those issues. Replying to Mr. Texier's question, she said that any underpaid non-unionized workers were free to take their case to court personally.

41. Mr. TEXIER asked for a more precise answer concerning the minimum wage. It was no secret that legal provisions were often not respected in many countries. His own country had ample legislation governing the minimum wage, but when it was not respected legal remedies were available in the form of the Ombudsman, the Court of Appeal and finally the Court of Cassation. He had wanted to know what occurred when that law was not respected in Iceland.

42. Ms. BALDURSDÓTTIR (Iceland) said that since the minimum wage was set by collective bargaining agreements, it was not governed by law, but that to the best of her knowledge there had been no cases in Iceland of breaches of those collective agreements.

43. Mr. GRISSA expressed the view that once a minimum wage was set by collective bargaining, it became legal, and reiterated the question regarding the consequences of any breaches of such agreements.

44. Ms. BALDURSDÓTTIR (Iceland) agreed that although the minimum wage was established by collective bargaining between the social partners and not by Parliament, there was a de facto law since there was legislation stipulating that employers were required to pay the agreed amount.

45. Mr. AHMED pointed out that something very close to a legal minimum wage existed in Iceland and could be deduced from a study prepared by the Icelandic Census Bureau, which established at ISK 133,000 per month the living cost of an average Icelander, and that approximately 10 per cent of the population lived below the poverty line, presumably with reference to that figure. Examples included single disabled persons, who received 57 per cent of the income of a working person, and disabled couples, who received 68 per cent of the income of a working couple.

46. The CHAIRPERSON invited members to put to the delegation their questions concerning articles 8 and 9 on trade union rights and the right to social security.

47. Mr. RIEDEL asked the delegation how it explained the fact, stated in an NGO report, that despite the country's highly developed social security system for the disabled, their numbers were still on the increase and they were constrained to seek financial assistance from non-governmental organizations. In connection with question 16, he sought clarification of the effect of article 9 on the 1993 Social Security Act and wished to know how marital status and household size affected the income of a disabled person.

48. Mr. PILLAY said that since the right to social security was enshrined in the Icelandic Constitution, it would appear that the poor were entitled to financial assistance from the State. While Iceland's social security system was good, what remedial action was Iceland, one of the world's richest countries, taking to address the problem of the 10 per cent of the population living in poverty? Did the Government envisage increasing social security allowances, which were indeed the lowest in the Nordic countries?

49. Ms. ARNLJÓTSDÓTTIR (Iceland) agreed that Iceland's welfare expenditure was low compared with that of most countries for a number of reasons: it had a lower unemployment rate, a younger population and a lower proportion of disabled persons, and many disabled and older persons had jobs. Also lower welfare expenditure went hand in hand with lower personal income taxation. Citing a report from the Icelandic National Institution of Statistics, she explained that only 12 OECD countries took part in harmonized statistics on welfare expenditure and the statistics only covered the general covenant, so that Iceland's pensions funds were excluded. However, Iceland's spending on disabled people, which came under the Ministry of Social Affairs, had been increasing on a yearly basis. In 1999 it was approximately 13 per cent higher than in 1996 and 25 per cent higher than in 1993. At the same time, welfare expenditure had increased by 50 per cent since 1990, so that it was clear that the Government was increasing expenditure on the disabled and on social security in general.

50. With regard to marital status, the social security legislation was based on a person's actual status: it consisted of a basic pension, with an additional allowance for persons living in a single household. Parliament had

been discussing the subject since 1936 and had always agreed that each individual case should be studied, although it had recently been decided to decrease the influence of a spouse's income.

51. Replying to Mr. Riedel's question concerning the NGO report that disabled persons living with a child did not qualify for the household grant, she was happy to inform the Committee that as of 1 April 1999, the situation has been changed, proof of the importance that Iceland assigned to the input of NGOs and society as a whole.

52. Mr. RIEDEL thanked the delegation for the good news on improvements, but asked whether there had been any dramatic change in the situation of NGOs caring for the disabled and having to supplement their benefits. According to the NGO report, a study by the National Economic Institute had shown that the incomes of a single disabled person and a disabled couple were respectively only 57 per cent and 68 per cent of the income of their working peers; was that problem being addressed?

53. Ms. ARNLJÓTSDÓTTIR (Iceland) pointed out that disabled lone parents had on average the same income as lone parents elsewhere in Icelandic society even prior to the changes of 1 April, so the situation was improving. Important discussions had been held on that issue in recent months.

54. Mr. PILLAY felt his question had not been answered. Given that 10 per cent of the population were living below the poverty line, surely they were not receiving the necessary financial assistance and welfare expenditure to leave the cycle of poverty. What was the Government doing to alleviate their situation?

55. Mr. AHMED, quoting the Icelandic Human Rights Centre, said that apparently up to 1,300 disability pensioners annually sought aid from the Lutheran Church Aid Agency, a figure which had increased 57 per cent over the past four years. Was the Lutheran Church Aid Agency so rich that it could help the Government provide for the disabled, or was it being funded by the Government? What was the source of its funds?

56. Ms. BALDURSDÓTTIR (Iceland) drew attention to the way the poverty line was defined. As part of a broader Nordic study, the Social Sciences Institute of the University had published a study based on a relative definition of poverty "at 50 per cent of median equivalent family earnings". By that definition, poverty would never be eliminated. Moreover, the report had only surveyed earnings from employment and had not taken into account pensions and child benefits.

57. Ms. ARNLJÓTSDÓTTIR (Iceland) had no figures on the nature or amount of aid provided by the Lutheran Church, but assumed the NGO figures were correct. Iceland had a mixed system, based on the Social Security Act and local authority social assistance, in addition to funds including pensions and funds for disabled people based on collective agreements. Employed persons who became invalids received payments from the funds. Payments to the disabled and invalids had been increasing, and the situation of those vulnerable groups would hopefully continue to improve.

58. Mr. AHMED asked what the source of the Lutheran Church's wealth was. Did the Government fund the Church?

59. Ms. ARNLJÓTSDÓTTIR (Iceland) said that although as a national church the Lutheran Church did receive payments from the State, its Aid Agency was an independent institution, whose income came mainly from independent private sources and the general population.

60. Mrs. JIMENEZ BUTRAGUEÑO asked about a comparison between the minimum wage and the minimum pension for older persons. Iceland's three-tier social system was very complicated and governed by many different laws. How did it affect the standard of living? How did savings affect pensions? Did a person with no savings receive the same pension? As she understood it, pensions were contributory by employers and employees. In Spain, taxes were paid towards pensions, and pensions did not depend on savings, but on contributions during a person's working life. Did pensions in Iceland depend solely on income? Income inevitably fell after retirement, but how dramatic was the difference in Iceland?

61. Ms. ARNLJÓTSDÓTTIR (Iceland) said that, 1999 being the United Nations International Year of the Elderly, their status had been widely discussed and their situation was hopefully improving. Like most societies, Iceland faced a growing group of active older persons, who remained healthier longer and wanted to participate in society. Good wages were a part of that right. As stated in the report, the Social Security Act ensured a basic pension to all persons from 67 years of age, and supplementary payments could increase that further if there was no income from another source. The three-pillar system consisted of the basic pension (based on income from work), the capital-funded pension system (obligatory for all workers) and savings; all were treated differently with regard to means testing for basic pensions and social security supplements. It was difficult to say whether the basic pension was adequate, but the Government had set up committees to look into that and similar issues, and discussions between the Prime Minister, the Minister of Health, the Minister of Social Affairs and representatives from groups of the elderly had already led to one recent change in payments to the elderly.

62. Mr. ANTANOVICH had not received an answer to his question of that morning on the work of the committees for equality of rights between men and women at community level. Referring to article 10 and the list of issues, he noted that the bill on paternity leave had been adopted, but it was not stated whether maternity leave had been extended from six to seven months. When was the leave granted, i.e. how many months before or after the birth of the child? Was salary preserved, or calculated by another formula? Regarding paragraph 64 (a) of the report (E/1990/6/Add.15), financial assistance would be granted when the income of an individual or a family was insufficient to support children. At what level was income considered insufficient? When was assistance granted and for how long? Who took those decisions? What social measures were taken beyond financial aid, such as helping the main wage-earner find employment or providing re-education? When was the assistance terminated?

63. Mr. SADI found the information in paragraphs 73 to 74 of the written replies very disturbing. Why was there such a high level of violence among

children in a small country like Iceland with a fairly straightforward social system? The violence, attributed to alcoholism and drug abuse, was affecting even tenth graders; how could those results be explained? Surely Iceland was not doing enough to protect children, pursuant to its obligation under article 10.

64. Mr. CEAUSU asked why, according to paragraph 94 of the report, it was not possible to bring an official complaint to the Children's Ombudsman since he did not deal with individual cases? The office of the Ombudsman was set up to defend the interests and rights of children, and in any country any administration had the obligation to receive and examine complaints by its citizens; surely the limitation of the competence of the Ombudsman went against the aims of that role and against the interests of children. He felt that the fact that the Ombudsman had to present an annual report to the Prime Minister compromised the independence of the Ombudsman from all executive control; a report to Parliament would be more appropriate. Evidently the institution was recent and perhaps with experience the legal base for its functions would improve; but in order to defend the rights and interests of children the procedures needed to be improved to enable the Ombudsman to receive and examine any complaints or communications from citizens.

65. Mr. AHMED believed the family unit was central to the problems under discussion. Iceland was a rich, well-established country with a small population and adequate wealth. In such a traditional and religious society, it was hard to understand what was wrong with the family unit. What made children go awry, use drugs or alcohol, and quit their homes to live on the streets or with foster families? Foster homes and the abandonment of children were significant issues in Iceland. According to the Icelandic Human Rights Centre, it was difficult to establish a family in Iceland; among the possible reasons given for that were the excessive number of single parents and the financial implications of having children. Although couples with children had a lower poverty rate than the unemployed, students, farmers or single parents, they did make up 55 per cent of the poverty population. Could the delegation comment on whether the main strains on families were the financial aspects or drug and alcohol related?

66. Mr. HUNT said it was clear that domestic violence was a real problem. Paragraph 91 of the written replies mentioned the three committees appointed by the Minister of Justice to present proposals on improvements, and their reports, according to paragraph 109 of the written replies, had been presented to Parliament in 1998. Given the importance of the issues and the scale of the problem, could the delegation give an update on the recommendations emerging from those reports, the action to be taken and the timetable for action?

67. Mr. PILLAY felt the comments by the Committee on the Rights of the Child in 1996 regarding the breakdown of families were pertinent and might explain the problems. It appeared that the family environment was infringed by long working hours, and that not enough was being done to prevent children being left alone; the insufficient availability of nursery places was also of concern. Would the delegation agree with that assessment? What had been done since 1996 to address those problems, and had the situation improved?

68. Mrs. JIMENEZ BUTRAGUEÑO asked about the role of grandparents. In Spain, grandparents often helped out with grandchildren, and the grandparent-grandchild relationship was very important, not least in passing on traditions.

69. The CHAIRPERSON, speaking in a personal capacity, said there were lengthy paragraphs with regard to domestic violence on needs, plans and proposals, but very little was said about the concrete measures being taken. Was there a special unit of Government to address the problem on the ground? Were there safe houses where battered women could take refuge?

70. Ms. ARNLJÓTSDÓTTIR (Iceland), replying to an earlier question by Mr. Antanovich, explained that doctors had recommended that women rest before the birth, whence the discussions about the possibility of increasing maternity leave to seven months. In the event the extension had not been granted; instead, the right to take one month prior to the birth had been allowed. State Social Security Institute maternity payments were the same to every person entitled to the full amount, around ISK 65,000, although bankers and civil servants received payments comparable with salaries due to collective agreements in their particular branches.

71. With regard to the Ombudsman, his role in most countries was equivalent to that in Iceland; it was hard to say whether that was sufficient. The Icelandic Children's Ombudsman had petitioned on accidents involving children and on the status of mentally ill children. His requests had been dealt with by the Government and projects had been initiated.

72. Replying to Mr. Ahmed on the problems of drugs and the family unit, she pointed out that drugs did not respect borders, so there would always be a drug problem in Iceland as in any other country. Replying to Mr. Hunt on domestic violence, she was pleased to announce that the Special Committee on Women's Health had finished its report the previous month, and domestic violence would henceforth be looked at as a health problem. A special project team would be appointed to see how the health service treated domestic violence, and a task force would be set up within the next few weeks. There was a special house for battered women and their children, and the roots of the problem were also being addressed by assisting husbands to overcome their violent tendencies.

73. Ms. BALDURSDÓTTIR (Iceland) said that every community with more than 500 inhabitants was obliged to set up a committee to work towards achieving equal rights between men and women. In accordance with article 41 of the Act on Municipalities, all such committees were authorized to merge in order to assume a larger workload. For example, a committee on equality had merged with a committee on social affairs.

74. Half the population of Iceland lived in Reykjavik which, in common with Akureyri on the north coast, had a separate committee dealing with equality between men and women. Both those committees had participated actively in projects with Nordic and Baltic countries, and in European Union mainstreaming projects. In Reykjavik, the woman mayor had officially proclaimed a policy of achieving equality between men and women. In relation to social assistance, the country's report stated that when the income of an individual or a family

was insufficient to support them, financial assistance would be granted. It was the task of the committees established to seek out those in need of assistance.

75. In reply to the question raised by Mr. Sadi, it should be reiterated that the problems of alcoholism and drug abuse were difficult to deal with. However, the Government was organizing a project entitled "Drugless Iceland in the Year 2002". That was a European Union coordinated project in which the Ministries of Justice, Education, Social Affairs and Health participated. Active and fruitful cooperation was also conducted with NGOs in the fight to combat drugs amongst teenagers. The role of NGOs was essential since the Government and local authorities did not possess all the necessary resources to overcome the problem.

76. Mr. WIMER ZAMBRANO made a request for statistics to be provided, since the documents being considered did not contain any data relating to the number of people taking drugs. Such information would help the Committee to grasp the seriousness of the situation.

77. Ms. ARNLJÓTSDÓTTIR (Iceland) added that the Government had recently contributed ISK 200 million towards the building of a treatment ward in a private institution for dealing with alcohol and drug-related problems. A new council had also been established on alcohol and drug prevention which focused on providing assistance to young people.

78. Mr. CEAUSU, referring to article 11, said that Iceland's report dealt only with housing problems and failed to address the issue of food and nutrition. That was a very important aspect of the right to an adequate standard of living and should be considered in relation to the right to a healthy diet, possible problems of malnutrition and a proper variety of foodstuffs.

79. Ms. ARNLJÓTSDÓTTIR (Iceland) said that the Ministry of Health had established a special council on nutrition which participated in WHO activities. A new health plan had recently been proposed for the period up to 2005. The new plan would concentrate on the diet of newborn children, i.e. those between the ages of nought and two. The special council comprised medical specialists, doctors and scientists.

80. Mr. TEXIER said that rather than just establishing whether people had a balanced diet, it should be ascertained whether some people did not have enough to eat, i.e. were there people below the minimum income level? If so, what measures had been taken to combat malnutrition?

81. Ms. ARNLJÓTSDÓTTIR (Iceland) said that the Ministry of Health was responsible for the diet and nutrition of the population, while local authorities provided social assistance through the Ministry of Social Affairs, with committees responsible for ensuring that people had enough food to eat.

82. Ms. BALDURSDÓTTIR (Iceland) reiterated the joint responsibility of the two ministries in question. Furthermore, the problem of food shortages had not previously arisen in Iceland.

83. Mrs. JIMENEZ-BUTRAGUEÑO said that the Committee had considered all necessary measures to enhance the condition of public buildings. In other countries, modern forms of transport had been provided without suitable ramps giving access to disabled people. That was a subject of great concern. By extension, all public facilities, even old and very large buildings, should be clean and accessible to all.

84. Mr. CEAUSU, referring to issues under article 12, said that the Icelandic authorities had envisaged a law designed to reduce tobacco smoking among young people. That law should be extended to other sections of the population. In application of the law, was there a ban on smoking in public buildings and school playgrounds? Did tobacco advertising on television still exist? Was there a real desire to reduce that terrible scourge? Other problems with health-related effects also existed, for example alcoholism. As in other Nordic countries, were attempts being made to reduce the sale of alcohol? Finally, was a programme in place to combat AIDS?

85. Mr. HUNT said that article 12, although large and complex, was offered only brief coverage in the report submitted by Iceland. Since the same observation had been made by the women's committee (CEDAW) in 1996, which had expressed concern at the lack of information provided on women's health care, a full report on article 12 would have been useful.

86. With regard to health insurance, the country report stated that such insurance provided free hospital treatment and that insured persons paid a small fee for visits to family physicians and a flat fee plus 40 per cent of the cost of specialist consultations. Were the fees in question increasing and, if so, by what percentage? If the fees were increasing, was the Government monitoring whether the higher fees deterred poorer sections of the population from seeking medical help?

87. The new Act on the rights of patients represented a major advance. The Act included special provisions on the right to make complaints. However, the complaints procedure was unclear and more information was needed on that aspect. It would be interesting to know whether a health ombudsman or equivalent health advocates existed who were trained to assist patients with their complaints. Finally, a new statute dealing with a genetic database had been passed. Were its provisions consistent with the new rights of patients?

88. Mr. RIEDEL reiterated that fuller information was necessary regarding article 12. In relation to the new Act on the rights of patients, it was important to ascertain to what extent the Act reflected the legislative drafts of the Council of Europe for a European Convention on biomedicine and bioethics. How was the subject of data protection dealt with in relation to patients' rights and general health matters?

89. The CHAIRPERSON, in reply to a question by Mr. Ceausu, confirmed that the text of the new Act on the rights of patients was available in English.

90. Mrs. JIMENEZ-BUTRAGUEÑO wondered whether the recent drop in the sale of medicines and patients' services in many countries had also occurred in Iceland. Restrictions in typical treatments for and rights of the elderly had

been imposed. Had such restrictions been borne in mind by the Icelandic authorities and were periodic reports issued on such ailments as arthritis and osteoporosis?

91. Ms. BALDURSDÓTTIR (Iceland) said that the Government had recently decided to participate in a pilot project in cooperation with Daimler-Benz and Shell. The Government intended to establish a hydrogen-based community in which the use of petrol engines for cars and vessels would be prohibited.

92. Ms. ARNLJÓTSDÓTTIR (Iceland) said that her country had very strict legislation which banned smoking in all public places. Attempts were being made to ban it even in restaurants. Iceland participated actively in the WHO Standing Committee for Europe. In a recent discussion on the advertising and marketing of alcohol products, it had advocated banning alcohol advertising completely, although such a ban could in future give rise to problems in the European Union, which had stipulated that there should be no discrimination against alcohol advertising.

93. In reply to the question raised regarding health insurance, the fees charged had recently been reduced. The maximum fee for treatment was ISK 5,000 and was much lower in health centres. Special rates applied to treatment for the elderly, disabled and children. A maximum annual fee was in place and families could obtain a card entitling them to further reductions. It was pleasing to note that during a recent Nordic Council of Ministers and WHO conference in Copenhagen, it had been unanimously agreed that Iceland had made the most progress in achieving legal rights for patients in Europe. As regards the complaints procedure, it was henceforth possible to complain directly in institutions, following a change in the Law on Physicians. The Chief Medical Officer was also supposed to take care of complaints and a special committee, including a lawyer and two independent health workers, was also in place. Unfortunately, a patients' ombudsman did not exist but material was currently being prepared on patients' rights to be distributed to health professionals. Finally, the Law relating to a genetic database had been the subject of recent discussions. It was comparable to the new Act on the rights of patients.

94. Mr. WIMER ZAMBRANO reiterated his request for the provision of health statistics.

The meeting rose at 6.05 p.m.

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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twentieth session

SUMMARY RECORD OF THE 5th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 28 April 1999, at 10 a.m.

Chairperson: Ms. BONOAN-DANDAN

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(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Second periodic report of Iceland (continued)

ELECTION OF OFFICERS

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GE.99-41383 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 8) (continued)

Second periodic report of Iceland (continued) (E/1990/6/Add.15); List of issues (E/C.12/Q/ICE/1); Written responses by the Icelandic Government (HR/CESCR/NONE/1999/2)

1. At the invitation of the Chairperson, the members of the delegation of Iceland resumed their places at the Committee table.

2. The CHAIRPERSON invited the Icelandic delegation to respond to questions asked by members of the Committee.

3. Ms. ARNLJÓTSDÓTTIR (Iceland), responding to questions relating to the Act of 17 December 1998 on medical databases, said that according to the initial conclusions reached by Icelandic experts looking into the subject, the Act was in conformity with all the European Conventions and all the relevant directives of the European Union. A recent university study on the question had yielded the same conclusions. With regard to the cost of health services since certain standard medical fees had been reduced by a decision adopted in April 1999, the standard fee for a visit to a general practitioner had been set at 300 Icelandic krona (US$ 4.30) for the population at large, but at only 100 Icelandic krona (US$ 1.40) for the elderly, the disabled and children. The cost for consulting a specialist was ISK 1,400 and ISK 500, respectively, with a possible surcharge of 40 per cent in the first case and 30 per cent in the second. Under a special regime, any individual or family was entitled to reduced rates beyond a certain annual threshold of expenditure. With regard to the situation of the elderly, a recent survey by the Ministry of Health and Social Security showed that they were generally satisfied with the quality of health services provided and that most of them had never had to refrain from consulting a physician because the standard fee was too high. As to possible restrictions on access to health services owing to age, while it was true that the Ministry had had to set priorities, there had never been any intention to reduce medical coverage for persons over 60 years of age. In that respect, the elderly had the same rights as the population at large.

4. Concerning alcohol and drug abuse, she said that a study carried out in 1997 showed that, paradoxically, the rate of alcohol consumption was very low in Iceland compared with other Nordic countries, whereas the number of individuals under treatment for alcoholism was among the highest in the world. The study also showed an increase in the consumption of drugs in general among young people.

5. Mr. ANTANOVICH asked whether the trend in alcohol consumption towards reduced consumption of hard liquor compared with wine and beer had developed spontaneously or was the result of a considered policy.

6. Ms. ARNLJÓTSDÓTTIR (Iceland) said that the trend could be attributed both to natural factors and to certain restrictions on alcohol consumption in

Icelandic society. Icelanders made a clear demarcation between work and leisure, and the ban on beer with an alcohol content of more than 2.24 degrees which had been in force since 1915, had been maintained until 1989, when the abstinence rate had been 14 per cent among men and 18 per cent among women.

7. Mr. HUNT asked whether the cost of prescription medication had increased.

8. Ms. ARNLJÓTSDÓTTIR (Iceland) said that there had been a major change in 1994, when control over the sale and distribution of medication had been transferred from the State to the private sector. The cost of medication had since diminished, but that reduction had nothing to do with State intervention, since producers had reduced their prices on their own initiative. She could provide figures to members of the Committee who wished to know more on that subject.

9. Ms. BALDURSDÓTTIR (Iceland), replying to questions relating to the right to work, said it was true that a work permit was issued to the employer for the first three years and that a person from a non-European Union country married to an Icelandic national must be the holder of a work permit, which in practice was always issued to such persons, even if it was valid for only three years. The Labour Board and the Ministry of Social Affairs were currently considering the matter as part of the revision of Act No. 133 of 1994 on the right to work. On domestic violence, it should be pointed out that the State and civil society had been cooperating intensively over the past 10 years or so to combat that scourge. In 1982, a shelter for women victims of violence and their children had been opened in Reykjavik. An NGO provided material, medical and psychological aid free of charge to women and girls who had been subjected to sexual violence and operated a training and information centre that was open to the public and to professionals capable of assisting the victims. Information provided by the Centre showed clearly that sexual violence was as prevalent in Iceland as in neighbouring countries. Since 1993, the Reykjavik hospital had been offering medical, psychological and social aid for rape victims as well as legal aid from the lodging of a complaint through the various stages of its processing.

10. As to the question raised by Mr. Ahmed, whether foreigners had the right to engage in commercial fishing and to consume energy, she said that Act No. 34 of 1991 on foreign investment in Icelandic industry set out restrictions on indirect foreign investment in the fishing industry and prohibited direct investment. On the other hand, there were no restrictions on energy use by foreigners and foreign companies in fact consumed over 60 per cent of the electricity produced in Iceland.

11. Ms. JIMENEZ BUTRAGUEÑO asked whether the penalties imposed on perpetrators of family violence had been strengthened in recent years. Had women's associations mobilized to ensure that the Criminal Code punished such offenders more severely?

12. Ms. BALDURSDÓTTIR (Iceland) said that the penalties set out by the law had not been altered, but the courts might well be applying them more stringently.

13. Ms. JIMENEZ BUTRAGUEÑO said she was concerned to see that the Act on the Rights of Patients did not list age among the grounds on which discrimination among patients was prohibited, particularly in view of the ageing of the population. She was concerned that the elderly, in comparison with other categories of the population, might be subjected to discrimination.

14. Ms. ARNLJÓTSDÓTTIR (Iceland) said that age was implicitly included among the grounds for discrimination mentioned in article 1, paragraph 2 of that Act. The Constitution expressly prohibited any discrimination on grounds of age, inter alia. The Icelandic delegation nevertheless acknowledged that it might be desirable for that factor to be specifically mentioned in the Act.

Articles 13 and 14: Right to education

15. Ms. JENSDÓTTIR (Iceland) informed members of the Committee that since 1 January 1998, three higher education institutions had become affiliated with the university in order to reinforce the Icelandic educational system.

16. Mr. AHMED requested clarification on the type of courses offered for children who were not nationals of the country in Icelandic and in their mother tongue.

17. Mr. HUNT asked whether the 1995 Act on Compulsory Education, which gave municipal authorities responsibility for the financing of educational institutions for children aged 6 to 16 years, was not likely to exacerbate the inequality between the more prosperous municipalities and those that were less well-to-do. Supported by Mr. CEAUSU, he asked whether the Government had set up a system to prevent and correct possible regional disparities in respect of financing and educational standards.

18. Mr. THAPALIA requested information on the number, age and sex of the disabled, and on educational institutions for them. With regard to the right to education, was there an education programme for the elderly and was anything being done to ensure that their knowledge and experience were handed down to the younger generation?

19. Mr. CEAUSU asked whether there was a numerus clausus for admission to upper secondary schools and, if so, what the admission procedures were.

20. Mr. PILLAY asked whether steps had been taken to uphold the qualifications of teachers and to ensure that their salaries were reviewed.

21. Ms. JENSDÓTTIR (Iceland), responding to Mr. Ahmed, said that in addition to the courses taken by Icelandic students, foreign students had two hours of study of the Icelandic language every week and their classes were held in the language that was their mother tongue insofar as possible. In the past few years, the Government had admitted many refugees, who had taken up residence in municipalities where their children could attend classes given in the language that was their mother tongue by adults who could also serve as their interpreters until they learned Icelandic. The new curriculum granted foreigners the right to study Icelandic as a second language so as to facilitate their integration into society.

22. With regard to the danger of regional disparities mentioned by Mr. Hunt and Mr. Ceausu, she said that the Government had set up a common fund financed by the State to preclude the persistence or growth of a gap between the richest and poorest municipalities. The Ministry of Education was also working towards that objective with the new curriculum applied in all educational institutions, which provided for the monitoring and evaluation of the teaching in such institutions. Although it was too early to draw conclusions, the local authorities and the population were taking a greater interest not only in the financing but also in the management of scholastic institutions.

23. Replying to a question by Mr. Ceausu, she said that there was no numerus clausus for admission to upper secondary education, but that since 1996, in some fields of study, students who appeared not to have the necessary level of learning were required to take a preliminary year of preparatory studies. The new system was aimed at reducing the high rate of school drop-outs.

24. Ms. JENSDÓTTIR (Iceland), replying to Mr. Thapalia, said that her country did not have a system under which the elderly could give young people the benefit of their experience and their knowledge. Certain hospitals brought in retired physicians to help in training medical students, although that approach had not been extensively developed. In response to Mr. Pillay, she acknowledged that the situation of the teaching staff was not as good as could be desired. Taking advantage of the economic upturn, private enterprises were offering teachers better-paying jobs than those in the civil service, sometimes obliging the State to recruit persons without all the necessary qualifications. Negotiations with teachers being the exclusive responsibility of the local authorities, the State could do nothing more than to give further encouragement to students to train as teachers. The fact that education was now the responsibility of the local authorities had helped to improve the salaries of the teaching staff, which had grown on average by 33 per cent in recent years - three times as fast as for other civil servants.

25. Ms. JIMENEZ BUTRAGUEÑO pointed out that in a 1996 report, the Committee on the Elimination of Discrimination against Women had recommended that instruction on human rights, and particularly on equality between the sexes, should be given in the schools. She asked whether the Icelandic Government had taken that recommendation into account.

26. Mr. SADI recalled that the General Assembly of the United Nations had proclaimed 1995-2004 the United Nations Decade for Human Rights Education. Was the Icelandic Government aware that the Decade was being held, and what measures had it taken to apply the programme? Could the Icelandic delegation provide more detailed information on the reasons for the high drop-out rate among secondary school students?

27. Ms. JENSDÓTTIR (Iceland) said that equality between the sexes was a reality in Iceland and everything was done to ensure that it remained so, including consciousness-raising activities in the schools and in other sectors of society. The Government was aware of the holding of the United Nations Decade for Human Rights Education and information pamphlets on that subject had been distributed in the schools. Even though human rights were not a subject in themselves, they were nevertheless constantly brought up in

disciplines such as history and sociology. On the high drop-out rate, she referred members of the Committee to paragraphs 131 to 135 of the replies to the list of issues, which contained detailed information, not only on the reasons for the drop-out rate but also on measures to reduce it.

28. Mr. WIMER said he was surprised that the report gave no information on university education, which was nevertheless the culminating point of the educational system. What were the conditions for admission to higher education and how were the universities financed? What opportunities were open to students and what were the chances of obtaining grants?

29. Mr. AHMED asked why only 40 per cent of university students were men. What were the factors, if any, that obstructed access of men to university? Could it be said that their human rights were being violated?

30. Ms. JENSDÓTTIR (Iceland) said that admission to university was possible with a secondary school-leaving certificate. Higher education was directly financed by the State, students being required only to pay registration fees. There was a fund from which students could obtain a loan to meet their day-to-day expenses and it was open to all, with no discrimination whatsoever. The fact that fewer men than women entered the university was a recent phenomenon: 20 years ago, the situation had been the reverse. No analysis had been made of the matter, but it was possible to assume that more men found jobs without having attended university, including in branches of activity such as fishing, for which vocational training was provided in the secondary schools.

31. Ms. JIMENEZ BUTRAGUEÑO asked whether, like other countries, Iceland was experiencing the problem of unemployment of university graduates.

32. Ms. JENSDÓTTIR (Iceland) said that the problem did not arise since the creation of enterprises in advanced fields like biotechnology had enabled many university graduates to find jobs in line with their training.

33. Mr. AHMED said he had been surprised to read in the reply on item 34 of the list of issues that all branches of science could be studied in Iceland, with the exception of architecture and veterinary science. Did that mean that there was no livestock-raising in the country?

34. Ms. JENSDÓTTIR (Iceland) said it was true that no one in Iceland had raised the question of why Icelandic students had to go to other Scandinavian countries to study architecture and veterinary science. The situation nevertheless offered an advantage in that various architectural styles were represented in the country and accordingly the landscapes were very attractive.

Article 15: Right to take part in cultural life

35. The CHAIRPERSON invited members of the Committee to ask questions or make comments concerning items 35 and 36 of the list of issues.

36. Mr. ANTANOVICH asked whether films were produced in Iceland and, if so, how many. In the past few years, what had been the proportion of foreign

television programmes? Was the invasion of American cultural products a subject of controversy in Iceland, as in other European countries? He himself believed that foreign products were often simply made into scapegoats when in fact it was local products that were of poor quality. In that connection, did the Icelandic Government have a policy supporting and promoting artistic quality at the national level, including in the cinema?

37. Mr. MARCHÁN ROMERO said it was regrettable that the report devoted only five short paragraphs to the rights set out in article 15 of the Covenant. That very summary treatment was unfortunate, for cultural rights were equally as important as economic and social rights. He wished to know what portion of the budget was allocated to culture and whether there was a national plan for the development, conservation and dissemination of cultural heritage. Had the Government taken specific measures to give students and the elderly greater access to cultural sites such as museums and libraries at preferential rates? According to the information he had received, there had been a tangible drop in attendance at theatres and cinemas. What explained the public's apathy? Was it, perhaps, inadequacies in the policy on dissemination and promotion of cultural works?

38. Mr. GRISSA asked what opportunities were available to various sectors of the Icelandic population, which was becoming more and more heterogeneous because of an influx from abroad, to take advantage of their cultural heritage and to profess their religious faith.

39. Ms. JIMENEZ BUTRAGUEÑO asked what specific steps were being taken by the State and local authorities to promote access of elderly people to culture, including at preferential rates, how many non-governmental organizations were present in Iceland and what was the nature of their activities. Were there organizations for the elderly and for young people?

40. The CHAIRPERSON invited the Icelandic delegation to reply to the questions raised by members of the Committee.

41. Ms. JENSDÓTTIR (Iceland) confirmed that the number of films of mediocre quality broadcast in Iceland had been increasing over the past 20 years. To confront the competition from foreign films, Icelandic film-makers could obtain financial aid from the Icelandic fund for the cinema or from foreign organizations. With regard to the controversy about mass imports of foreign films to the detriment of local output, Icelandic films were generally of better quality than imported ones, but the small size of the local market worked against them. In addition, their export was hardly facilitated by the fact that Icelandic was totally unknown abroad. The State gave subsidies not only to the cinema but also to other sectors of cultural activity, such as the fine arts, literature and music, while leaving to artists themselves the responsibility for managing the funds, a system which appeared to be fully satisfactory.

42. The proportion of the national budget devoted to culture had risen from 1.6 per cent to 2.2 per cent of the gross domestic product between 1987 and 1996. It was artists and other cultural workers rather than the Government who determined cultural orientations and policy, even though the State subsidized cultural activities.

43. With regard to access of the elderly to culture, she said the elderly were accorded preferential rates for certain cultural events at the national level. There were extensive programmes of cultural activities at the local level, something which encouraged the elderly to participate actively in cultural life, including in the theatre. There was an extremely active cultural association for the elderly which gave very popular theatre performances, often depicting the situation of the elderly.

44. Iceland had many non-governmental organizations, which could be freely established by any person residing in the country, but the authorities had not considered it useful to make a survey of them.

45. With regard to religious freedom in Iceland, she said that everyone was free to practise his religion, whatever his national or other origin. Everyone was also free to participate on the same footing in the cultural life of the country and to obtain subsidies for cultural or artistic activities.

46. As to the provision of subsidies to religious communities other than the Evangelical Lutheran Church, she explained that part of the taxes paid was automatically transmitted to that Church or, if the taxpayer was not a member of that Church, to his or her own church or religious community.

47. The identity cards of Icelanders did not indicate their religion, but religion was mentioned on the income tax statement that they filled out every year in order to designate the beneficiary of the ecclesiastical tax.

48. Ms. BALDURSDÓTTIR (Iceland) said that Iceland intended to become a party to ILO Convention No. 138 concerning Minimum Age for Admission to Employment and had started the ratification procedure.

49. The CHAIRPERSON thanked the Icelandic delegation and announced that consideration of the second periodic report of Iceland had been completed.

50. The Icelandic delegation withdrew.

ELECTION OF OFFICERS (agenda item 2) (continued)

51. The CHAIRPERSON said that, following private consultations among members of the Committee, Mr. Ahmed had been elected Vice-Chairperson of the Committee.

The meeting rose at 12.45 p.m.

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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twentieth session

SUMMARY RECORD OF THE 6th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 28 April 1999, at 3 p.m.

Chairperson: Mrs. BONOAN-DANDAN

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Action on Economic and Social Council decisions

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GE.99-41374 (E)

The meeting was called to order at 3.05 p.m.

SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (continued)

Discussion of a proposed study on the treaty bodies system

1. The CHAIRPERSON welcomed Ms. Anne Bayefsky, member of a team contracted to conduct a study on the treaty body system and invited her to elaborate on the mission statement she had made available to Committee members.

2. Ms. BAYEFSKY said that the proposed study on the United Nations human rights treaty system, launched in December 1998, provided an opportunity for presenting the High Commissioner for Human Rights with a report on the operation of the human rights treaty system at a critical juncture in its history. It was expected to be completed by December 1999 and would consist of two parts: the first was a country-impact study on a sample of 20 countries - four from each region - selected on the basis of geographical distribution. In an effort to determine the reasons for the success or failure of compliance with the treaties, it took the form of replies by national correspondents to a detailed questionnaire relating specifically to each country's attitude to the treaties, in terms of the drafting of reports, treatment of the various committees' concluding observations, the interest of the media and educators, the use made of the treaties in the work of the courts and of legislators, and access by non-governmental organizations (NGOs) to the process.

3. The second component was an operational analysis of the working methods and secretariat servicing of the treaty bodies, of general access to them, and of their relationships with the rest of the United Nations system, including other agencies and special rapporteurs. Contact had been made with all the major stakeholders, including ECOSOC-accredited organizations and other NGOs interested in following the work of the treaty bodies, national institutions, the human rights committees of parliamentary assemblies and all the United Nations agencies both in New York and Geneva, as well as States parties. By and large, the States parties had preferred to meet with the mission individually in order to express their concerns and proffer their future vision of the system. She hoped that Committee members would air their concerns and needs either from the floor or in writing.

4. The CHAIRPERSON said she welcomed the study, particularly since the Committee on Economic, Social and Cultural Rights appeared to be largely neglected in comparison with other human rights committees. She hoped that many of the mission's recommendations would touch on economic, social and cultural rights in general and on ways in which the system could serve to enhance the Committee. She opened the floor for members' comments, suggestions and questions on the study.

5. Mr. SADI, pointing out that such a study was long overdue, asked for information concerning the mission's mandate and budget support. Having twice served on the Commission on Human Rights, he was aware of the system's shortcomings and sceptical about the mission's hopes of obtaining reliable information from Governments and NGOs on such a critical issue by means of

questionnaires. He suggested that an alternative methodology should be sought; for instance, the mission could avail itself of the services of former members of treaty bodies, who, having been privy to what occurred within those bodies, would be more candid than Governments.

6. One shortcoming that should be rectified was the overlapping of the issues dealt with by the various treaty bodies. Another problem was that, owing to the dearth of resources - computer services, secretarial staff, officers to assist with the drafting of documents - the Committee was unable to make any headway with its enormous backlog of work. Also, sustained pressure needed to be exerted on countries if they were to be made to comply with the provisions of the Covenant. The fact that they were put to the test only every five years did not adequately serve that purpose: more frequent country reporting and additional Committee sessions were sorely needed. He was disappointed that the Committee had not yet felt the impact of Finland's financial contribution to the treaty bodies.

7. Ms. BAYEFSKY explained that the input from the field came not from Governments, but from questionnaires answered exclusively by independent national consultants - mainly academics - on the basis of interviews. Since the mission fulfilled its mandate in collaboration with the Office of the High Commissioner for Human Rights, the outcome would not be a mere academic study. It was largely funded by the Ford Foundation and was completely independent of the system and its funding sources. Its purpose was to listen to all constituencies and submit a series of recommendations on the treaty system to the Commissioner for Human Rights.

8. Mr. GRISSA said that while he understood that the main objective of the mission's task was to improve the work of the treaty bodies and the enforcement of human rights in the member States, the treaty bodies themselves possessed a wealth of information concerning their problems, which were repeatedly discussed at meetings, at least those of the Committee on Economic, Social and Cultural Rights. The way in which States parties treated the Committee's concluding observations varied from country to country. For example, the treaty bodies' work was rarely circulated in the developing countries, sometimes owing to lack of resources, sometimes because of restrictions on the press. He also wished to know how the mission's sample had been selected; for instance, had the sample from Africa, which had over 60 countries with differing characteristics, been chosen from West, East, North and Southern Africa?

9. Mr. CEAUSU pointed out that the Committee discussed its working methods, needs and preoccupations at virtually every session, as the summary records would undoubtedly show. While it was easy to be frank and candid in private meetings, public meetings were not the ideal forum for a critical view of the Committee's work and expectations. It would be more productive if the mission interviewed Committee members individually in order to obtain the broadest possible array of views.

10. Mr. ATANGANA asked for further details concerning the choice of national correspondents.

11. Mr. TEXIER said that the Committee on Economic, Social and Cultural Rights was quite different from other committees in that it had not been provided for in the Covenant, a fact that had both negative and positive aspects. Indeed, the much-vaunted indivisibility of the treaty bodies was a myth, since different treatment had been meted out to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights from the outset. It had been clear from the beginning that the Western countries were essentially interested in the Covenant on Civil and Political Rights, while the so-called socialist countries were content for economic, social and cultural rights to be on the agenda so long as that did not interfere with what actually occurred in the countries. Another negative aspect was the insecurity felt by the Committee, an offshoot of the Economic and Social Council (ECOSOC), in the fear that ECOSOC could, in a trice, undo what it had done, though the threat was not imminent in his view.

12. On the positive side, the Committee had created its own methods of work, which were relatively original - and had determined from its inception to give a voice to the NGOs - not only those accredited by ECOSOC - first informally and later in a more institutionalized manner, and they now took the floor on the first day of each session. Also, a working group of the Committee prepared and dispatched to States parties a list of issues for discussion six months in advance, thereby gradually paving the way for their appearance before the Committee. That measure had been extremely effective and could usefully be emulated by other committees, provided the committee concerned and the States parties both abided by the rules of the game.

13. With regard to substance, another problem was the lack of a clear definition of the content of economic, social and cultural rights. While in that regard fair progress had been made on forced expulsion and on the right to housing, the same needed to be done for all other rights, which made for an enormous backlog of work. The particular reticence felt by all States parties about the nature of economic, social and cultural rights had impeded adoption of the sorely needed optional protocol, which had been drafted as long ago as December 1996 and submitted to the Commission on Human Rights. The Commission had since met on three occasions, but as yet no working group on the subject had been established. While the consideration of reports on implementation was a fundamental component of the Committee's work, a vital complement to the Covenant was the individual and collective repercussions of those rights. However, progress had been made as far as methods of work for specifying those rights were concerned. With regard to the right to housing, dialogue had been strengthened with Panama, the Dominican Republic and Hong Kong, and practical measures proposed for its more effective enforcement.

14. One of the Committee's principal weaknesses was its lack of resources, it being clear that Commission officials devoted their time mainly to civil and political rights. Another was, as Mr. Grissa had mentioned, the scant publicity it received in the States parties, where economic, social and cultural rights were not taken very seriously. They could never be reliably enforced unless the Committee's work and debates were effectively publicized in the countries. For that the Committee was partly to blame.

15. It was incumbent on the Committee to ensure that its recommendations were implemented, but follow-up was not its forte, although it had improved somewhat in that respect. It might send country missions to monitor a State's performance. There was the case of a Colombian NGO which had seen one of the Committee's reports and tackled the Government on the subject of enforcement. Also, the Committee had obliged Canada, which had wished to defer its appearance before the Committee, to adhere to its original schedule and appear in order to discuss the problem of social budgets. By and large, the Committee had evolved empirically and succeeded in finding ways of discovering what went on in the States parties, but diversification of information sources was vital.

16. Lastly, he regretted that, with the exception of the International Labour Organization, which took the floor at each session of the Committee, the United Nations bodies did not display great interest in the Committee's deliberations, although they were enjoined in the Covenant to assist with its implementation.

17. Mr. ANTANOVICH wondered whether the black border around the presentation document presaged any pessimism regarding its prospects. There were of course good reasons for concern, since it was a very broad-ranging study of a type rarely conducted under the aegis of the United Nations, but he felt that it had come at the right time. He was pleased that Ms. Bayefsky had come to discuss the study with the Committee at the preliminary stage, and was sure all members would be willing to share their various views and approaches. Given the depth and scope of the study, it was obviously a pilot project which should be followed up later by efforts on promotion and implementation. Currently, promotion efficiency depended on implementation strategies since the whole system of the six major human rights treaties and their monitoring bodies was fundamental to the United Nations human rights programme. Nonetheless, on closer inspection, great disparities appeared in both promotion and awareness of human rights in the difference regions of the world. He was personally acquainted with countries where very few people had more than a very general idea of the existence of human rights.

18. He agreed with colleagues who queried the selection of national correspondents and wondered whether four was an adequate number for each region. There were countries in Asia with populations around the billion mark and serious problems of transparency in terms of economic, social and cultural rights, and such countries might merit separate treatment. The world was very varied, so it was important for recommendations on implementation to be presented on a regional basis. As a universal system, the human rights treaty bodies worked well, but analysis was needed of the way they functioned and existing discrepancies in order to improve implementation, including reporting by member States.

19. He held a positive view in general of Governments' efforts to comply with the demands of the treaty bodies, but the situation on the ground tended to overtake the submission of reports. Efforts to improve and speed up the process had to take cost into account, but perhaps the new telecommunication technology could offer better ways to report and, for the United Nations, to react and suggest new practices. The Committee had developed a commendable strategy for discussing major global issues with representatives of NGOs and

other United Nations specialized bodies. Globalization was a historic and not a natural process, meaning it could be influenced, but regional deviations should be considered. An outline was needed of issues that would contribute to human rights, particularly economic, social and cultural rights, and better approaches to the assessment of national strategies.

20. Publicity was important, but a real strategy was needed to publicize findings, for instance in book form, so that the new ideas on current human rights strategy, philosophy and practice could be more widely disseminated and accepted. The output of the communications media devoted to human rights reporting was very meagre. Reporting tended to focus on human rights violations, and although such concern was legitimate, it ousted serious public discussion on human rights as a way of life in civilized society and as a strategy for life in the future. In conclusion, he thought it was important for the Committee and the study team to get to know one another and share ideas, and he suggested meeting again at the autumn session, which would serve as a forum for the further development of human rights strategy.

21. Mrs. JIMENEZ BUTRAGUEÑO also thanked Ms. Bayefsky for the document. She had heard that one of the Committee's problems was follow-up, but both the countries themselves and members of the Committee were confused about the level and manner of follow-up. Members of other committees had commented that the final observations of the Committee on Economic, Social and Cultural Rights were exemplary. It might therefore be preferable to publish final observations rather than the annual reports, which might help with the issue of follow-up. Perhaps it was necessary to institute some kind of publicity drive, for instance through better attended press conferences at the end of meetings, if that was appropriate for an independent committee. Alternatively, the High Commissioner or the Secretariat, when disseminating information, could highlight the observations of the Committee. More emphasis might usefully be placed on the contributions of NGOs. Evidently there were improvements that could be made, but personally, she was very happy with the work and results of the Committee. Probably the greatest joy of her professional life had been when she and a colleague had succeeded in convincing the Chinese Government to reunite a child with his family. If the actions of individual members of the Committee could change the policy of major Governments, it evidently augured well for the work of the Committee as a whole.

22. Mr. KOUZNETSOV congratulated the High Commissioner on the new initiative. He wished the two rapporteurs every success, but warned them against the danger of wanting to re-invent the wheel, by which he meant that outside experts were no more likely to come up with new ideas than the committees themselves. All the committees, as far as they were able, carefully analysed their own working methods, and noted many points they would like to change. Countries, on the other hand, tended to react formally and he agreed with colleagues who doubted that new ideas could be expected from countries or their experts. As a long-term member of United Nations treaty bodies, he had been approached by a Russian expert to discuss innovations but, after several hours of talks, it became clear that the outside expert had no new ideas that the Committee had not already contemplated. It might indeed be the case that the Committee's ideas were falling on stony ground, because the States were not trained to look at the final observations, and sometimes the

committees themselves failed to look at changes in a country in the light of their previous comments and recommendations. There was the possibility that carrying out the study within the framework of the Office of the High Commissioner for Human Rights entailed certain limitations.

23. The indivisibility of rights was something all committee members were convinced of, but what did it mean in practical terms? The committees had different numbers of sessions, and were served differently by the secretariat. Serious research had already been done on the issue of duplication and he doubted whether any new observations could be made. Personally he felt it was not possible, and perhaps even unnecessary, to eliminate all duplication.

24. He thought there was a need to look at practice and see to what extent it complied with the covenants. For example, for reasons members were well aware of, the Committee was sometimes obliged to consider the situation of human rights in a country without reference to a country report. In formal legal terms that was not in accordance with the covenant, but should the practice be continued or altered? Perhaps the rapporteurs would be able to suggest other approaches.

25. If Mr. Antanovich's proposals for looking at the regionalization of the approach to human rights were taken up, perhaps that would lead to new ideas and new forms of working. The situation in Europe, for instance, was evidently different from that on other continents, so perhaps a regional approach would improve the system of monitoring. He had been very surprised to see in a press communiqué of the sixty-fifth session of the Human Rights Committee (March/April 1999), regarding Optional Protocol No. 1, ratified by the Russian Federation, that the secretariat had received communications from Russia, but had been unable to deal with them due to lack of Russian-speaking personnel. As someone who had recommended that the Russian Federation ratify the Optional Protocol, he had been disappointed to learn that those efforts had come up against technical problems of that nature.

26. He welcomed the opportunity to hear the preliminary ideas and interim results of the rapporteurs at the November session. The Committee was interested in the progress of that work and might be able to advise on the difficulties encountered. He wished the rapporteurs every success, but in view of the complexity of their task he felt it was too much for two people to tackle. Nevertheless, he was sure the report would be an important stage in the work of the treaty bodies, which was to increase respect for human rights.

27. Ms. BAYEFSKY explained that the rapporteurs had consulted the secretariat about the choice of national correspondents. One of the criteria used had been length of involvement in the treaty system, with presentation of State reports, summary records of dialogues and concluding observations, which gave the researchers a record and the opportunity to follow it up. In another context, they were concerned with variations in legal systems, cultures and languages. In choosing four countries from each region, they had tried hard to vary the target under consideration. Thus, in Africa they had chosen Egypt, Gambia, Senegal and South Africa; from Asia they had chosen Iran, Philippines, Japan and India - countries with large populations and significant differences. In addition to specific advice about those countries and how they handled the treaty system, they had also been concerned to find

countries that had signed as many as possible of the treaties, including the optional protocols, so that they could see how individual communications were dealt with. Such criteria added substance to their work.

28. Addressing the issue of pessimism, she pointed out that observers of the treaty system and those within the United Nations bureaucracy itself felt the system had reached a crossroads. There were many problems at various stages of the process: many reports were overdue; there was a heavy burden of reporting on States, and situations of overlap regarding both the substance of rights and the reporting process. The Committee on Economic, Social and Cultural Rights had played a leading role in promoting focused reporting and the formation of strategies to minimize duplication between committees and to maximize the effective use of time. Members were right in pointing out that some procedures could appropriately be applied to other committees, which was why the rapporteurs were planning to produce a detailed comparative analysis of the working methods of all the committees. There were considerable variations with respect, for instance, to the degree of secretariat involvement in the preparation of country reports, to the form of reports, to whether or not a list of issues was presented to the Government, and to whether or not the country reports, written answers and follow-up observations were available as United Nations documents.

29. Nevertheless, despite those differences there were recurring themes in terms of focus, one of which was the issue of follow-up. What happened to concluding observations? How could the media be used to publicize the work and conclusions of the committees? How could interest in the work of the committees, and hence in the treaties themselves, be maximized? She took pains to point out that the purpose of the study was the better implementation of the treaties themselves; it would be a mistake to view it simply as an examination of the working methods of the treaty bodies. It had to be understood, however, that responsibility for the implementation of the treaties lay not only with the treaty bodies, but also with the countries themselves, and with individuals and groups, who had a responsibility to make appropriate use of the treaties. That was why the study would be approaching the question of effective implementation from the point of view of all the actors in the process. It was not to be a description of current events, but would direct attention towards concrete recommendations. The full collaboration of the Office of the High Commissioner for Human Rights was an important factor, ensuring access to documentation and an understanding of what was working well across the system; that collaboration had already proved very helpful. She was personally optimistic about what could be accomplished in the time. It certainly was too great a task for two people, which was why they had 20 people in the field. They would be visiting the countries in question, and had arranged for full-time helpers in both South Africa and Canada.

30. Mr. HUNT, associating himself with the comments made by Mr. Texier, said that the previous chairperson of the Committee (Mr. Alston) had carried out a study for the Commission on Human Rights and had prepared three reports on treaty body reform. It was important to clarify the relationship between those studies and that being conducted by Professor Bayefsky. The progress made by the United Nations human rights treaty body system had been remarkable but at the same time deeply flawed. Such a system had previously been

inconceivable. Whatever changes had been introduced had developed in an ad hoc manner and, in that regard, a warning should be issued. Reforms should be used to strengthen the treaty body system. There was, however, a risk that the reform process would be exploited by some to weaken it. As regards the election of experts to the Committee, that process ensured proper geographical distribution among members, since it was framed by an Economic and Social Council resolution.

31. Mr. SADI said that attention should be directed to the status of the Covenant in different countries. Once the Covenant had been accepted as legally binding, the first steps could be taken towards a more effective treaty body system. Secondly, the reporting system and optional protocol procedure were defective. That was so because the Committee relied on incomplete information. The Human Rights Committee had also been forced to make use of limited sources of information in relation to ambiguous cases. Work was done under pressure and judgements made in an excessively rapid manner. Finally, the status of the Committee's concluding observations should be made clear since otherwise States parties did not know how to react to them. A recommendation should also be made regarding the establishment of a human rights court.

32. Mr. MARCHAN ROMERO emphasized that it was important to have an academic study which was independent of the human rights monitoring system. Such a study would have two important advantages. Firstly, it would contain case law on how human rights were implemented in various countries, thereby providing a general overview of the human rights climate. Secondly, it was important for the study to evaluate in academic terms the extent to which human rights were implemented.

33. Ms. BAYEFSKY said that the studies conducted by Mr. Alston formed an important basis for the work she was undertaking. They were complemented by the material examined at the World Conference on Human Rights held in Vienna. The views presented by the Committee were extremely important and would be taken into account during the preparation of her study.

Action on Economic and Social Council decisions

34. The CHAIRPERSON said that the Economic and Social Council had requested the Committee to update its previous draft decisions on the holding of its nineteenth session in New York and of an extraordinary additional session. The two previous recommendations could be combined in order to request an extraordinary additional session in New York. That could be transformed into a request for a regular third session on an annual basis.

35. Mr. GRISSA said that if a third session were requested, it could be reserved for the consideration of country reports, without reference to a possible venue.

36. Mr. WIMER ZAMBRANO said that the secretariat could provide the necessary background information on the matter.

37. The CHAIRPERSON emphasized that the previous draft decisions already contained the reasons for the request for a third annual session to be held in New York. The decisions referred to the Committee's need to make its activities and concerns accessible to a wider range of participants. There

was a very different potential constituency which might follow its work in New York, including government delegations, non-governmental organizations, the media and international agencies. It should also be noted that one of every three sessions of the Human Rights Committee was held in New York and that had contributed very significantly to improving the profile and prominence of the work of that Committee.

38. Mr. AHMED, endorsing the comments made by the Chairperson, said that a commitment had already been made in the request for a third session to be held in New York.

39. Mr. ANTANOVICH said that it was clear that the Committee required better operational capacities. The expenditure incurred in holding a third session in New York would not be much greater than if the session were held in Geneva. It was, moreover, important for the High Commissioner for Human Rights to lobby the relevant United Nations departments so that the Committee's request would be granted.

40. The CHAIRPERSON pointed out that the Economic and Social Council's request for an updated decision from the Committee indicated its interest in the proposals contained therein.

41. Mr. HUNT emphasized that the request for a third annual session had substantial financial implications. Was such a request realistic?

42. Mr. TEXIER shared the concern expressed by Mr. Hunt. A precedent had already been established with regard to holding a second regular session and, consequently, it was possible that the Economic and Social Council would reject the request for a third regular session on financial and other grounds.

43. Mr. ANTANOVICH said that it was important to adopt a nuanced approach. The Chairperson should make the necessary consultations in the secretariat since a request for an extraordinary third session might initially be accepted but a further request for such a session could be rejected as a result of the precarious financial situation prevailing in the United Nations.

44. The CHAIRPERSON, concluding the discussion, said that Mr. Hunt would prepare a new draft decision requesting an extraordinary third session in New York. Such a draft decision would help to identify the possible problems and advantages involved.

45. Mr. AHMED stressed that the draft decision should refer to the backlog of reports for consideration accumulated by the Committee, thereby substantiating the need for an extraordinary third session.

46. Mr. SADI said that given the current interest in economic, social and cultural rights, the draft decision should contain a further preambular paragraph giving that interest more concrete form.

47. The CHAIRPERSON concluded by agreeing that the Committee should take advantage of the rising tide of interest in its work.

The meeting rose at 4.55 p.m.